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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/591,136

09/04/2007

Rolf Grothe

Muller-62

7776

39703

7590

03/11/2009

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EXAMINER

MRUK, BRIAN P

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

03/11/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,136	<b>Applicant(s)</b> GROTHE ET AL.	
	<b>Examiner</b> Brian P. Mruk	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-13 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13 and 16-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/23/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. The examiner makes of record that instant claim 2 recites a broad range of components followed by a series of narrow ranges (i.e. with the term “preferably”). For examination purposes, the examiner asserts that the narrow range recited in instant claim 2 is merely an exemplary range, and thus, the prior art will be applied against the broadest range recited in instant claim 2. Furthermore, the examiner suggests that applicant should delete the narrow range from instant claim 2, and add a new dependent claim that recites the narrow range recited in instant claim 2.

2. Claim 18 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, claim 1, from which claim 18 ultimately depends from, already requires the variables x and y to be from 2 to 10.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 1796

4. Claims 1-9, 11-13 and 16-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, for containing the phrase "being essentially primary alcohols." The term "essentially" renders the claim vague and indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the term "essentially". Furthermore, the specification does not contain guidelines describing what numerical values are encompassed by the phrase "essentially". Appropriate correction and/or clarification is required.

6. The transitional phrase "essentially consisting of" that is recited in instant claim 1 renders the claim vague and indefinite, since it is unclear if the claim language is open or closed. The examiner suggests that the transitional phrase in instant claim 1 should be changed to either "comprising", "consisting of", or "consisting essentially of". See MPEP 2111.03. Appropriate correction and/or clarification is required.

7. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, for containing the phrase "supplement one another essentially to 100% by mass." The term "essentially to 100% by mass" renders the claim vague and indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the term "essentially to 100% by mass". Furthermore, the specification does not contain guidelines describing

what numerical values are encompassed by the phrase “essentially to 100% by mass”.

Appropriate correction and/or clarification is required.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-9, 11-13, and 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerobo et al, U.S. Patent No. 6,133,218.

Kerobo et al, U.S. Patent No. 6,133,218, discloses a degreaser composition comprising a blend of two nonionic surfactants (see abstract). It is further taught by Kerobo et al that suitable nonionic surfactants include 1) 0.15-5% by weight of an alcohol alkoxylate with a fatty alcohol moiety as disclosed in column 2, lines 20-34, where R is a branched alkyl chain containing 8-18 carbon atoms, m is 0-14, n is 0-14, o is 0-14, p is 0-14, and R''' is -OH, and 2) 0.15-5% by weight of a fatty alcohol moiety as disclosed in column 2, lines 35-48, where R is a straight alkyl chain containing 8-18 carbon atoms, x is 0-14, y is 3-14, z is 0-20, R' is methyl or ethyl, R'' is methyl or ethyl, and R''' is -OH, per the requirements of the instant invention. Although Kerobo et al generally discloses a degreaser composition containing a blend of two nonionic surfactants containing both branched and linear alkyl groups, the reference does not

Art Unit: 1796

require such a degreaser composition comprising the specific alcohol mixtures required in the instant claims with sufficient specificity to constitute anticipation.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to have formulated a degreaser composition, as taught by Kerobo et al, which contained a blend of two nonionic surfactants that meet the structural limitations required in instant claims 1-9, 11-13, and 16-25, because such a blend of two nonionic surfactants fall within the scope of the degreaser compositions taught by Kerobo et al. Therefore, one of ordinary skill in the art would have had a reasonable expectation of success, because such a blend of two nonionic surfactants that meet the structural limitations required in instant claims 1-9, 11-13, and 16-25 is expressly suggested by the Kerobo et al disclosure and therefore is an obvious formulation.

10. Claims 1-9, 11-13, and 16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coffindaffer et al, U.S. Patent No. 6,335,312.

Coffindaffer et al, U.S. Patent No. 6,335,312, discloses a personal cleansing composition comprising mid-chain branched surfactants (see abstract). It is further taught by Coffindaffer et al that the surfactant system may comprise a mixture of linear and branched surfactants, wherein the branched primary alkyl polyoxyalkylene has the formula disclosed in column 17, line 31-col. 18, line 44, per the requirements of the instant invention. Although Coffindaffer et al generally discloses a personal cleansing composition containing a mixture of linear and branched surfactants, the reference does not require such a personal cleansing composition comprising the specific mixture of

Art Unit: 1796

linear and branched surfactants required in the instant claims with sufficient specificity to constitute anticipation.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to have formulated a personal cleansing composition, as taught by Coffindaffer et al, which contained a mixture of linear and branched surfactants that meet the structural limitations required in instant claims 1-9, 11-13, and 16-25, because such a mixture of linear and branched surfactants fall within the scope of the personal cleansing compositions taught by Coffindaffer et al. Therefore, one of ordinary skill in the art would have had a reasonable expectation of success, because such a mixture of linear and branched surfactants that meet the structural limitations required in instant claims 1-9, 11-13, and 16-25 is expressly suggested by the Coffindaffer et al disclosure and therefore is an obvious formulation.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian P Mruk/  
Primary Examiner, Art Unit 1796

Brian P Mruk  
March 9, 2009

Brian P Mruk  
Primary Examiner  
Art Unit 1796